

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

THOMAS STONE,	)	
	)	Case No. 08 C 1746
Plaintiff,	)	
	)	Judge Bucklo
v.	)	
	)	Magistrate Judge Denlow
CORUS BANK, N.A.,	)	
	)	
Defendant.	)	

**PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

Plaintiff Thomas Stone moves this Court to certify this case as a class action, stating as follows:

1. Plaintiff's claims are based on Corus Bank's failure to comply with the required ATM fee notice postings set forth in the Electronic Fund Transfers Act, 15 U.S.C. § 1693 *et seq.*, ("EFTA" or "Act"), with respect to a Corus Bank-operated ATM located at 530 Torrence Ave., Calumet City, IL 60409.

2. Because the EFTA claims at issue arise from Corus Bank's failure to post the statutorily-required surcharge notice on the outside of the ATM in question, the class action device is the ideal mechanism for disposition of all ATM-users' claims. In fact, the EFTA specifically endorses class actions as an appropriate mechanism for resolving claims under the EFTA.<sup>1</sup>

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<sup>1</sup> See 15 U.S.C. § 1693m.

3. In determining whether a class will be certified, the substantive allegations of the complaint should be accepted as true.<sup>2</sup> Moreover, Rule 23 is a remedial procedure that should be construed liberally to permit class actions.<sup>3</sup>

4. As detailed in Plaintiff's accompanying memorandum, the requirements to proceed with a class action under FED. R. CIV. P. 23(a) - numerosity, commonality, typicality, and adequacy - are satisfied in this case. Moreover, the requirements for certifying a Rule 23(b)(3) class are also met.

WHEREFORE, Plaintiff Thomas Stone respectfully requests that this Court enter an order certifying the following class:

All persons who, from March 26, 2007 to March 27, 2008, were charged a transaction fee for the use of automated teller machine number S862010, located at Corus Bank, 530 Torrence Ave., Calumet City, IL 60409.

Respectfully submitted,

By: /s/ Lance A. Raphael  
One of Plaintiffs' Attorneys

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<sup>2</sup> *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 178 (1974); *Keele v. Wexler*, No. 95 C 3483, 1996 U.S. Dist. LEXIS 3253, \*1 (N.D. Ill. March 19, 1996), *aff'd*, 149 F.3d 589 (7th Cir. 1998).

<sup>3</sup> *See, e.g., Gates v. Towery*, No. 04 C 2155, 2004 U.S. Dist. LEXIS 22876, \*4 (N.D. Ill. Nov. 10, 2004); *Canon v. Nationwide Acceptance Corp.*, No. 96 C 1136, 1997 U.S. Dist. LEXIS 3517 at \*4 (N.D. Ill. March 24, 1997).